

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JULY 5, 2011

AMENDED IN SENATE JUNE 20, 2011

AMENDED IN ASSEMBLY MAY 31, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1136**

---

---

**Introduced by Assembly Member Swanson**

February 18, 2011

---

---

An act to add Section 6403.5 to the Labor Code, relating to employment safety.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as amended, Swanson. Employment safety: health facilities. Existing law regulates the operation of health facilities.

Existing law, the California Occupational Safety and Health Act of 1973, establishes certain safety and other responsibilities of employers and employees, including the requirement that employers provide safety devices and safeguards reasonably necessary to render the employment safe. Willful or repeated violations are a crime.

This bill would make findings and declarations concerning the lifting, repositioning, and transfer of patients in acute care hospitals and resulting injuries to hospital personnel.

This bill would *amend the California Occupational Safety and Health Act of 1973* to require an employer to maintain a safe patient handling

policy, as defined, for patient care units, and to provide trained lift teams, as defined, or staff trained in safe lifting techniques in each general acute care hospital, *except for specified hospitals*. The safe patient handling policy would require the replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, or lift teams, as specified. As part of the injury and illness prevention programs required by existing regulations, employers would be required to adopt a patient protection and health care worker back and musculoskeletal injury prevention plan, which shall include a safe patient handling policy component, as specified, to protect patients and health care workers, *as defined*, in health care facilities. By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known and cited as the Hospital
- 2 Patient and Health Care Worker Injury Protection Act.
- 3 SEC. 2. The Legislature finds and declares the following:
- 4 (a) In 2008, there were 36,130 occupational musculoskeletal
- 5 disorder (MSD) cases in private industry where the source of injury
- 6 or illness was a health care patient or resident of a health care
- 7 facility. This accounted for 11 percent of the 317,440 total cases
- 8 of MSDs that resulted in at least one lost day from work in 2008.
- 9 Almost all (98 percent) of the cases involving patient handling
- 10 occurred within the health care and social assistance industry,
- 11 composing 55 percent of the 64,300 total MSD cases in that
- 12 industry.
- 13 (b) For MSD cases involving patient handling, almost all (99
- 14 percent) were the result of overexertion. A sprain, strain, or tear
- 15 was the type of injury that was incurred in 84 percent of the MSD
- 16 cases involving patient handling.

(c) Nursing aides, orderlies, and attendants incurred occupational injuries or illnesses in 52 percent of the MSD cases involving health care patients. Registered nurses accounted for 16 percent and home health aides for another 6 percent. Other occupations with MSD cases involving health care patients included licensed practical and licensed vocational nurses, emergency medical technicians and paramedics, personal and home care aides, health care support workers, radiologic technologists and technicians, and medical and health services managers.

(d) Over 12 percent of the nursing workforce leaves the bedside due to back injuries each year. California's nursing workforce is aging at the same time patient acuity and obesity are rising. It is imperative that we protect our registered nurses and other health care workers from injury, and provide patients with safe and appropriate care. At a cost of between sixty thousand dollars (\$60,000) and one hundred forty thousand dollars (\$140,000) to train and orient each new nurse, preventing turnover from injuries will save hospitals money.

SEC. 3. Section 6403.5 is added to the Labor Code, to read:

6403.5. (a) *As part of the injury and illness prevention programs required by Section 3203 of Title 8 of the California Code of Regulations, or any successor law or regulation, employers shall adopt a patient protection and health care worker back and musculoskeletal injury prevention plan. The plan shall include a safe patient handling policy component reflected in professional occupational safety guidelines for the protection of patients and health care workers in health care facilities.*

~~(a)~~

(b) An employer shall maintain a safe patient handling policy at all times for all patient care units, and shall provide trained lift teams or other support staff trained in safe lifting techniques in each general acute care hospital. The employer shall provide training to health care workers that includes, but is not limited to, the following:

(1) The appropriate use of lifting devices and equipment.

(2) The five areas of body exposure: vertical, lateral, bariatric, repositioning, and ambulation.

(3) The use of lifting devices to handle patients safely.

~~(b)~~

1 (c) As the coordinator of care, the registered nurse shall be  
2 responsible for the observation and direction of patient lifts and  
3 mobilization, and shall participate as needed in patient handling  
4 in accordance with the nurse's job description *and professional*  
5 *judgment*.

6 (e)

7 (d) For purposes of this section, "lift team" means hospital  
8 employees specifically trained to handle patient lifts,  
9 repositionings, and transfers using patient transfer, repositioning,  
10 or lifting devices as appropriate for the specific patient. Lift team  
11 members may perform other duties as assigned during their ~~shift~~  
12 *shifts*. *A general acute care hospital shall not be required by this*  
13 *section to hire new staff to comprise the lift team so long as direct*  
14 *patient care assignments are not compromised*.

15 (e) For purposes of this section, "health care worker" means  
16 a lift team member or other staff responsible for assisting in lifting  
17 patients who is a hospital employee specifically trained to handle  
18 patient lifts, repositioning, and transfers using patient transfer,  
19 repositioning, and lifting devices as appropriate for the specific  
20 patient.

21 (d)

22 (f) For the purposes of this section, "safe patient handling  
23 policy" means a policy that requires replacement of manual lifting  
24 and transferring of patients with powered patient transfer devices,  
25 lifting devices, and lift teams, as appropriate for the specific patient  
26 and consistent with the employer's safety policies and the  
27 professional judgment and clinical assessment of the registered  
28 nurse.

29 ~~(e) As part of the injury and illness prevention programs required~~  
30 ~~by Section 3203 of Title 8 of the California Code of Regulations,~~  
31 ~~or any successor law or regulation, employers shall adopt a patient~~  
32 ~~protection and health care worker back and musculoskeletal injury~~  
33 ~~prevention plan. The plan shall include a safe patient handling~~  
34 ~~policy component reflected in professional occupational safety~~  
35 ~~guidelines for the protection of patients and health care workers~~  
36 ~~in health care facilities.~~

37 (f)

38 (g) A health care worker who refuses to lift, reposition, or  
39 transfer a patient due to concerns about patient or worker safety  
40 or the lack of trained lift team personnel or equipment shall not,

1 based upon the refusal, be the subject of disciplinary action by the  
2 hospital or any of its managers or employees.

3 *(h) This section shall not apply to general acute care hospitals*  
4 *within the Department of Corrections and Rehabilitation or the*  
5 *State Department of Developmental Services.*

6 SEC. 4. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.